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Paper No. 7
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AUG 26 2002

In re Application of
Brown et al.
Application No. 10/037,588
Filed: October 23, 2001
Attorney Docket No. 401052-A-01-US (Brown)

OFFICE OF PETITIONS
DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed on May 13, 2002 (Certificate of Mailing date May 2, 2002), requesting that 4 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventor who allegedly refuses to join in this application.

The petition is **GRANTED**.

There are 5 inventors named for the claimed invention in this application: Michael Kenneth Brown ("Brown"), Norman C. Chan ("Chan"), Sharmistha Sarkar Das ("Das"), David Joseph Skiba ("Skiba"), and Danny M. Wages ("Wages"). The application as filed on October 23, 2001 did not include a properly signed oath/declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. On February 5, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("2/5/02 Notice"), giving Applicants an extendable 2-month period within which to submit, *inter alia*,¹ a proper oath/declaration. In response, the instant petition was filed along with a request for a 1-month extension of time and the requisite extension-of-time fee, asserting that Brown has refused to join in this application, and requesting that a "Declaration and Power of Attorney" signed by all inventors but Brown ("5/13/02 Declaration") be accepted such that the 4 signing inventors may make this application on behalf of themselves as well as Brown.

Chan, Das, Skiba and Wages may file this application on behalf of themselves and of Brown, provided that a *bona fide* attempt has been made to present to Brown, for signature, a copy of the entire application, including the specification, claims, drawings;² and that the latter refuses to join in this application. To show that Brown has refused to join in this application despite a *bona fide* attempt made to present to him for signature a copy of the entire application, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Brown at his last known address,³ and his subsequent refusal.⁴

¹ The other missing items are: the application basic filing fee and the extra claims fees.

² MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN.

³ 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

⁴ See MPEP section 409.03(d) (Aug. 2001).

The instant petition encloses a Statement of Facts by John C. Moran ("Moran") ("Moran Statement"), counsel for Avaya Inc., apparently Brown's former employer, accompanied by Exhibits A-D, setting forth in essence that a copy of the entire application was provided to Brown via e-mail on February 28, 2002⁵ and again by mail on April 6, 2002,⁶ and that Brown indicated his refusal to join in the application in an April 24, 2002 e-mail reply to Moran's April 17, 2002 e-mail⁷ and subsequent telephone inquiry⁸ concerning this application, and again by telephone during Moran's April 24, 2002 telephone follow-up.⁹

The Moran Statement in conjunction with the accompanying exhibits demonstrates that a *bona fide* attempt had been made to present to Brown a copy of the entire application,¹⁰ and that Brown has refused to join in this application. The petition is thus granted and the 5/13/02 Declaration is hereby accepted.

The Office also acknowledges receipt with the instant petition of the \$740 basic filing fee for this application, the \$84 for 1 independent claim in excess of 3, the \$198 for 11 total claims in excess of 20, all as response to the 2/5/02 Notice; as well as the \$130 surcharge for late filing of an acceptable oath/declaration and the \$130 petition fee. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Brown at 285 Lewis Street, North Plainfield, NJ 07060.

Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, as requested, the correspondence address for this application has been changed and made of record.

The application file is being returned to OIPE for further processing with respect to the 5/13/02 Declaration and for mailing of a filing receipt if one has not already been issued. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

⁵ Page 2 of petition, Moran Statement, lines 8-10.

⁶ Page 2 of petition, Moran Statement, lines 9-10 from bottom.

⁷ Page 2 of petition, Moran Statement, lines 5-8 from bottom.

⁸ Exhibit D (printout of Brown's 8/24/02 e-mail), 1st line.

⁹ Page 2 of petition, Moran Statement, last 5 lines; Exhibit D (printout of Brown's 8/24/02 e-mail).

¹⁰ The Office interprets the 2/28/02 e-mail and the 4/6/02 letter as stating that an entire copy of the application, including specification, claims, drawings, was provided to Brown for review before deciding whether to join in. If this interpretation is incorrect, counsel must notify this Office upon receipt of this Decision.

Telephone inquiries concerning this decision should be directed to Petitions Attorney RC Tang at (703) 308-0763.

A handwritten signature in black ink, appearing to read 'B. M. Flanagan', written in a cursive style.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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09-08-02

Michael Kenneth Brown
285 Lewis Street
North Plainfield, NJ 07060

COPY MAILED

In re Application of
Brown et al.
Application No. 10/037,588
Filed: October 23, 2001
For: A UNIFIED CALL CLASSIFIER FOR
PROCESSING SPEECH AND TONES AS
A SINGLE INFORMATION STREAM

LETTER

AUG 26 2002

OFFICE OF PETITIONS

Dear Mr. Brown,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John C. Moran, Esq.
4120 E. 115th Place
Thornton, CO 80233
Attorney Docket No. 401052-A-01-US (Brown)